

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4115 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HIRJI SALJI

Versus

STATE OF GUJARAT

Appearance:

MR GC PATEL for Petitioner

MR SAMIR DAVE for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/01/97

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioner has prayed in this Special Civil Application for the direction to the respondents to pay just and reasonable compensation in respect of the lands of the petitioner which have been submerged in the Sipu Dam Project, undertaken by the respondents.

2. The facts of the case, in brief, are that the

petitioner claims himself to be an ex-jagirdar of Dhanera Taluka which consisted of villages Atal, Juni Mahudi, Navi Mahudi, Rampura, Gangodra etc. In an inquiry held under sec. 2(4)(i) of the Bombay Merged Territories and Areas (Jagir Abolition) Act, 1953 which came into force on 1-8-1954, the competent authority declared the jagir of the petitioner to be a share-proprietary Jagir, having 8 Annas share in a rupee of the petitioner and rest of the 8 Annas of the Government. The order in this respect has been passed on 20th June, 1956. On abolition of the jagir, the lands which were forest lands and were in possession of the petitioner, jointly with the State Government, came to be managed by the State Government. The State Government gave half share to the petitioner from the income derived from the said lands on and after 1st August, 1954. The petitioner made a representation to the respondents on 21st February, 1983, praying for the grant of compensation to him in respect of the lands which were submerged into Sipu Dam. He made another application to the second respondent on 13th December, 1984 in that behalf which further followed by another application dated 18th May, 1984 to the Superintending Engineer, Sipu Dam Project, Palanpur.

3. Under the letter dated 12th June, 1986 from the respondent no.2, the petitioner has been informed that in the applications which have been sent by the Office of the Sipu Project, there is no application of the petitioner for compensation. So when the petitioner has not filed any application for compensation within time, how he could have justified his claim for determination of the amount of compensation. Reference may have to the petitioners own application dated 18th May, 1984, submitted to the Superintending Engineer, Sipu Dam Project, Palanpur. The contents of this Application are clear that the petitioner was claiming the compensation for abolition of his right in the private forest. The application for the compensation has to be submitted to the Government on or before 1-8-1973 which time has further been extended till 31st December, 1980. As per the petitioner's own case, he has 50% right in the forest i.e. private forest which has been abolished, and the compensation which he claimed for abolition of rights, but that claim does not sound for the obvious reason that the application has not been filed in time. The explanation which has been given by the petitioner not to file the application within time, cannot be accepted.

4. The petitioner has no case whatsoever on merits, and as such, this Special Civil Application is dismissed. Rule discharged.

zgs/-